

REMARKS

Claims 1-25 are pending in the instant application. Claims 1-25 have been rejected by the Examiner. The Applicant submits that claims 1-25 are in condition for allowance and requests reconsideration and withdrawal of the outstanding rejections. No new matter has been entered.

In relevant part, the present claims are directed to a new suture loading system that is attached to the body of a suture securing instrument. This is distinct from stand alone suture threaders, such as the device described by U.S. Patent No. 5,800,447 to Wenstrom or the device referenced at Figure 11 of U.S. Patent No. 5,575,801 to Habermeyer et al. Moreover, this is also distinct from the Sauer suture loader (e.g., see Figure 4 of U.S. Patent No. 5,520,702 to Sauer) (the above being discussed in previous office actions).

Indeed, the Examiner's current rejections over Sauer '289, Sauer '702 and Ek do not teach any more than did Wenstrom.

The presently claimed device is an improvement over the type of suture loader described by the above-mentioned patents, precisely because it includes the attaching member that extends from the suture loader body and engages the body of the separate surgical device. Review of Sauer '289, Sauer '702 and Ek illustrates that there is no such attaching member. Rather, a big ring extends over one side of the device (from the proximal end of the ferrule), and a slightly smaller loop extends out of the other side at the angle (from the distal end of the ferrule, which ferrule is also positioned at an angle in the device). The attaching member of the present ferrule loader permits a more secure grip, eliminates the need for a bulky ring grip and reduces the worry that the distal suture loading ring will slip out.

We will cut to the Examiner's core rejections (the 35 U.S.C. 103(a) rejections with regard to claims 21-23) and then clean up any remaining issues:

*Claims 21-25 have been rejected as being unpatentable over Sauer in view of U.S. Patent No. 5,643,289 to Sauer (hereinafter "Sauer '289") and Iglesias.*

Effectively, the Examiner primarily relies on a general teaching (e.g., from Iglesias or Grossi) that one surgical device may be mounted onto another (Iglesias merely teaches a cutting loop mounted within a channel of a resectoscope and Grossi merely teaches mounting an

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electrode on a telescoping member, the electrode useable for a urological endoscope). The Examiner then coupled that general teaching with the statement in Sauer '289 that 'the threading tool may be modified so that the threading can be accomplished intracorporeally.' With those two premises, the Examiner concluded that it would be obvious to provide the suture loading body provided as engaged to the body of the separate surgical device.

It is not disputed that some medical devices are a composite of two attached and distinguishable elements. This does not, however, mean that whenever a medical device is engineered to directly engage another (this engineering construction being new in the relevant device art), that it CANNOT be patentable. Indeed, in the present case, going from a 'ripcord' type configuration to a more integrated engaged configuration required engineering and provided great benefits (as noted above, the attaching member of the present ferrule loader permits a more secure grip, eliminates the need for a bulky ring grip and reduces the worry that the distal suture loading ring will slip out). This configuration should not be dismissed SIMPLY on the premise that creating a suture loading body that attaches to the surgical device is obvious simply because other people have combined/attached two objects in the past.

Further, the Examiner calls out the teaching of Sauer '289, (to quote the Examiner): 'the threading tool may be modified so that the threading can be accomplished intracorporeally.' The Examiner indicates that this means construction of a body that attaches to the crimper. However, this does not follow. The most obvious meaning is that the 'ripcord' just extends further through the crimper bore. Thus, Sauer '289 would have the same configuration outside the device (i.e., no body attached to the crimping device. To suggest otherwise is to read the applicant's teachings (using hindsight) into the general comment made by Sauer '289 (which does not mention AT ALL engineering and attaching a suture loader body to the crimping device). Sauer '289 just doesn't provide the motivational link that the Examiner is looking for.

The prior art simply does not teach engineering a suture loader body and attaching it to the surgical device. Similarly, the Examiner cannot say that the engineered combination is obvious because of devices have generally been combined in the past. The present invention is an advancement over the previous suture loaders precisely because a proximal body was engineered to attach to the surgical device rather than relying on a 'rip cord' handle. While

claims 21-25 specifically call out a suture securing member having a ferrule through which the suture is loaded, independent claims each recite the attachment of the suture loader body to the body of the surgical device (and have been amended to specifically clarify that the device is to load suture through an opening in the surgical device). Reconsideration and allowance of all the rejections is requested in light of the above.

**Claim Rejections Under - 35 USC §102**

Iglesias, Fk, Grossi, Sauer '289 and Sauer '702 have all been addressed (and distinguished) above. With regard to the remaining rejections:

*Claims 1, 2 and 9 have been rejected with regard to U.S. Patent No. 4,779,616 to Johnson (hereinafter "Johnson").*

Referring to Johnson, item 10 is a suture retrieval device. While it is inserted through a cannula in the body to grab a suture in the body, it still does not teach an attaching member that analogous to the presently claimed suture loader attachment member (it doesn't teach an attaching member at all, regardless of the fact that it is for retrieval of suture within the body). The Examiner would call item 12 an attaching member, but item 12 does not attach (grab in some way) to the device 18. Item 12 is just a "handle" for loop 14. There is no teaching to attach the handle 12 to cannula 18. Nonetheless, the claims have been amended to clarify that the engineered body is mounted on/engaged on and exterior portion of the surgical device (to eliminate any confusion /re suture snares for laparoscopic mechanisms).

Reconsideration and allowance are respectfully requested.

*Claims 1-5 and 9 have been rejected with regard to U.S. Patent No. 5,501,692 to Riza (hereinafter "Riza").*

Riza is similar to Johnson as a laparoscopic suture snare. Riza is penetrated into the body, a piston is pushed to extend the snare, and the piston is released to capture/draw in the snare and suture. Riza does not mount onto an exterior portion of a separate device.

Reconsideration and allowance are respectfully requested.

**Double Patenting**

A terminal disclaimer is provided herewith with regard to co-pending application serial number 10/037,899. Accordingly, the provisional double patenting rejections are obviated.

**CONCLUSION**

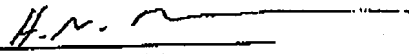
It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and allowance is requested. It is submitted that the foregoing amendments and remarks should render the case in condition for allowance.

Accordingly, as the cited references neither anticipate nor render obvious that which the applicant deems to be the invention, it is respectfully requested that claims 1-25 be passed to issue.

If there are any charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130. This is a general authorization to charge fees to the aforementioned Deposit Account.

Respectfully submitted,

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